



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2013-0174: FRL – 9900-03-Region10]

Approval and Promulgation of Implementation Plans; Washington: Puget Sound Clean Air Agency Regulatory Updates

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is taking final action to approve revisions to Washington's State Implementation Plan (SIP) submitted by the Washington State Department of Ecology on February 4, 2005 and August 2, 2006. The submissions contain revisions to the Puget Sound Clean Air Agency (PSCAA) regulations approved by the PSCAA Board in 2003, 2004, and 2005. These revisions relate primarily to control measures for limiting volatile organic compounds (VOC) emissions. On July 16, 2013, the EPA proposed to approve these revisions into Washington's SIP. The EPA is taking final action to approve these revisions because they satisfy the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: The EPA has established a docket for this action under Docket Identification No. EPA-R10-OAR-2013-0174. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket

materials are available either electronically through <http://www.regulations.gov> or in hard copy at EPA Region 10, Office of Air, Waste, and Toxics, AWT-107, 1200 Sixth Avenue, Seattle, Washington 98101. The EPA requests that you contact the person listed in the FOR FURTHER INFORMATION CONTACT section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt at (206) 553-0256, hunt.jeff@epa.gov, or the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever “we,” “us,” or “our” are used, it is intended to refer to the EPA.

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I. Background

On February 4, 2005 and August 2, 2006, the Director of the Washington State Department of Ecology (Ecology) submitted revisions to the Washington SIP to incorporate regulatory changes approved by the PSCAA Board in 2003, 2004, and 2005. These regulatory changes update control measures to limit VOC emissions from motor vehicle and mobile equipment coating operations. PSCAA also removed outdated regulations related to coatings and ink manufacturing to rely on the more stringent federal standards contained in 40 CFR part 63 (Subpart HHHHH—National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing). Lastly, PSCAA modified Regulation I, Section 12.03 “Continuous Emission Monitoring System” in response to the EPA’s concerns about enforcement authority. An explanation of the Clean Air Act requirements and implementing

regulations that are met by this SIP, a detailed explanation of the revision, and the EPA's reasons for approving it were provided in the notice of proposed rulemaking published on July 16, 2013, and will not be restated here. See 78 FR 42480. The public comment period for this proposed rule ended on August 15, 2013. The EPA did not receive any comments on the proposal.

The February 4, 2005 and August 2, 2006 submittals also contained revisions to PSCAA Regulation I, Article 13 “Solid Fuel Burning Device Standards”; Regulation I, Section 3.11 “Civil Penalties”; Regulation I, Section 3.25 “Federal Regulation Reference Date”; and Regulation II, Section 2.07 “Gasoline Dispensing Facilities” that PSCAA subsequently revised after the 2006 submission. In the EPA’s July 16, 2013 proposal we explained that we would take no action on those outdated provisions.

II. Final Action

The EPA is approving and incorporating by reference into the SIP revisions to the PSCAA regulations found in Regulation I, Section 12.03 “Continuous Emission Monitoring Systems” adopted September 23, 2004; Regulation II, Section 1.05 “Special Definitions” adopted July 24, 2003; and Regulation II, Section 3.04 “Motor Vehicle and Mobile Equipment Coating Operations” adopted July 24, 2003, because they are consistent with CAA requirements. The EPA is removing from the Washington SIP Regulation II, Section 3.11 “Coatings and Ink Manufacturing” because these emission sources are covered by more stringent federal standards.

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state

law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it will not impose substantial direct costs on tribal governments or preempt tribal law. The SIP is not approved to apply in Indian country located in the State, except for non-trust land within the exterior boundaries of the Puyallup Indian Reservation, also known as the 1873 Survey Area. Under the Puyallup Tribe of Indians Settlement Act of 1989, 25 U.S.C. 1773, Congress explicitly provided state and local agencies in Washington authority over activities on non-trust lands within the 1873 Survey Area and the EPA is therefore approving this SIP on such lands. Consistent with EPA policy, the EPA nonetheless provided a consultation opportunity to the Puyallup Tribe in a letter dated June 6, 2013. The EPA did not receive a request for consultation.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule

does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 3, 2013.

Dennis J. McLerran,
Regional Administrator,
Region 10.

40 CFR part 52 is amended as follows:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart WW – Washington

2. Section 52.2470 is amended in paragraph (c) Table 4 -- PUGET SOUND CLEAN AIR AGENCY REGULATIONS:

- a. By revising entry 12.03 under the heading “Regulation I—Article 12: Standards of Performance for Continuous Emission Monitoring Systems.”
- b. By revising entry 1.05 under the heading “Regulation II—Article 1: Purpose, Policy, Short Title, and Definitions.”
- c. By revising entry 3.04 under the heading “Regulation II—Article 3: Miscellaneous Volatile Organic Compound Emission Standards.”
- d. By removing entry 3.11 “Coatings and Ink Manufacturing” under the heading “Regulation II—Article 3: Miscellaneous Volatile Organic Compound Emission Standards.”

§ 52. 2470 Identification of plan.

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(c)	*	*	*	
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TABLE 4 – PUGET SOUND CLEAN AIR AGENCY REGULATIONS

State citation	Title/Subject	State adopted	EPA Approval date	Explanations
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		date		
* * * * *				
Regulation I—Article 12: Standards of Performance for Continuous Emission Monitoring Systems				
* * * * *				
12.03	Continuous Emission Monitoring Systems	9/23/04	[Insert <u>Federal Register</u> publication date] [Insert page number where the document begins]	
* * * * *				
Regulation II—Article 1: Purpose, Policy, Short Title, and Definitions				
* * * * *				
1.05	Special Definitions	7/24/03	[Insert <u>Federal Register</u> publication date] [Insert page number where the document begins]	
* * * * *				
Regulation II—Article 3: Miscellaneous Volatile Organic Compound Emission Standards				
* * * * *				
3.04	Motor Vehicle and Mobile Equipment Coating Operations	7/24/03	[Insert <u>Federal Register</u> publication date] [Insert page number where the document begins]	
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[FR Doc. 2013-22478 Filed 09/16/2013 at 8:45 am; Publication Date: 09/17/2013]